

**REMARKS**

The Final Rejection has been carefully studied. The claims in the application, even upon entry of the amendments presented above, would remain as claims 9-12. These claims are patentable for the reasons pointed out below, and accordingly such claims should be allowed. Applicant respectfully requests favorable reconsideration, entry of the amendments presented above and formal allowance.

Claims 9-12 have been rejected as obvious from a combination of Minoru and JP '429. This rejection is respectfully traversed.

Minoru does not teach a cosmetic containing the culture supernatant of the lactic acid bacteria as recited in amended claim 1 above. The cited reference discloses only a cosmetic and anti-inflammatory agent containing bacterial cells of the lactobacillus genus or the ingredients of cell walls of the bacterial cells.

More specifically, Minoru describes at page 2, paragraph [0009] that the bacterial cells used are obtained after the above lactic acid bacteria are cultured by ordinary methods, by collecting and washing the lactic acid bacteria; and the bacterial cells can be used as viable

bacteria in accordance with a type of agent, an intended use or the like, or killed bacteria made by appropriate sterilization. At page 2, paragraph [0010], Minoru discloses that the ingredient of the cell walls of the bacterial cells is obtained by crushing the bacterial cells by use of cell crusher or the like according to ordinary methods; in addition, an enzymatic process or a centrifugal separation process may be carried out, if needed.

The culture supernatant of lactic acid bacteria of the present invention is a half-transparent component in a suspended condition of supernatant of deposited bacteria ingredient of the bacterial cells and is obtained by removing the bacterial cell ingredient by means of centrifugal separation or the like. It should be clearly understood that the culture supernatant in the present invention differs substantially from the ingredient of the bacteria cells or ingredient of cell walls of the bacterial cells of Minoru.

More specifically, the culture supernatant of lactic acid bacteria has a so-called buffer effect to adjust an enzymatic action of protease or an action for decomposing the cells. Various nutrients such as vitamins and minerals and so on as culture medium and fermented products are included in the culture supernatant of lactic acid bacteria.

Accordingly, there are advantageous effects of the present invention in that a moisturizing action is obtained by supplying the various nutrients to skin and regeneration of cells of the skin is promoted.

On the other hand, the bacterial cells or the ingredient of cell walls of the bacterial cells do not have the above advantageous effects of the present invention and have only the effect of a preventive treatment against strong skin inflammation, especially of skin erythema generated when receiving ultraviolet radiation.

The cosmetic using the culture supernatant of the present invention should therefor be understood to differ significantly from the cosmetic including the anti-inflammatory agent as disclosed in Minoru in composition, operation and advantageous effect, and therefore even in object and use of the cosmetic.

For reference, Minoru discloses that the skin lotion described in the embodiment 2, paragraph [0025], skin milk in the embodiment 3, paragraph [0026] and cream in the embodiment 4, paragraph [0027] include only the "bacteria of lactic acid bacteria" or "cell walls of lactic acid bacteria purification" as ingredients, but Minoru does not disclose the use of a culture supernatant of lactic acid bacteria as in the present invention.

JP '429 relates to an external preparation for skin including extracts from mycelia of ABM (Agaricus Blazei Murill). However, JP '429 does not teach the facts of extracting the protease of the ABM and using the protease in the cosmetic as in the present invention.

3. Consequently, even if it were obvious to combine "the bacterial cells of lactic acid bacteria" or "cell walls of lactic acid bacteria purification" described in the cited reference 1 and the extracts from the mycelia of ABM described in JP '429, the cosmetic as described above in the present invention **cannot** be obtained.

The Applicant has amended claims 9 and 12 to even better define the present invention over the proposed combination of the cited references in that the culture supernatant comprises the constituent which does not contain the bacterial cells and is present in an amount of 10-50% by weight. These features are not disclosed nor suggested in the cited references. As a result, the amended claims 9 to 12 are allowable over the disclosure of the cited references.

Withdrawal of the rejection is respectfully requested.

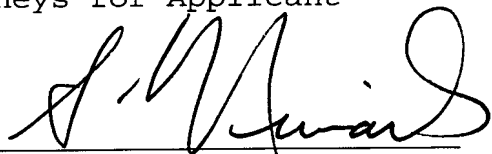
Appln. No. 09/831,767  
Amd. dated November 4, 2003  
Reply to Office Action of May 7, 2003

Applicants again respectfully request favorable  
reconsideration, entry of the amendments presented above and  
formal allowance.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By

  
Sheridan Neimark  
Registration No. 20,520

SN:jaa  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
G:\BN\A\Asak\Horiuchi 6\PTO\amd 4No03.doc